

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-5235.M5

MDR Tracking Number: M5-04-1239-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-6-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The following disputed dates of service were withdrawn by the requestor on March 15, 2004: CPT codes 97149 and one unit of CPT code 97110 for date of service 4/16/03.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises, joint mobilization, hot/cold packs therapy, and DME (durable medical equipment) were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

This Findings and Decision is hereby issued this 17th day of March 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 4/8/03 through 6/12/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 17th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/rlc

Enclosure: IRO decision

March 11, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-1239-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

____ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ____ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in the area of Physical Medicine and Rehabilitation.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence and Plan documentation
H&P and office notes
Physical Therapy notes
Operative report

Clinical History:

The clinical history is probably best given in the designated doctor review. This claimant was injured while he was working on _____. He had pain in the right wrist. He reported that the wrist snapped, and he had sharp pain from the wrist to the elbow. The treating doctor's surgical procedure was a release of the carpal tunnel on the right and modified arthrodesis of the right wrist with proximal carpectomy done on 02/04/03. I believe that was the last surgery. The date is important since the period of therapy in question started approximately 2 months thereafter, 04/08/03, and this was February, 2003. The timeshare being approximately 2 months after the definitive surgery going through to June, i.e. the surgery being February, and the treatment started in April and went through the early part of June.

Disputed Services:

Therapeutic exercises, joint mobilization, hot/cold pack therapy, and DME, during the period of 04/08/03 through 06/12/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and therapies in dispute as stated above was medically necessary in this case.

Rationale:

This gentleman had a very unusual type of injury and unusual type of surgery, which does not fall into a table of a correct number of treatments. The reviewer is of the opinion that the therapy was prolonged. Eight weeks of therapy from the 4th through the 6th, i.e. April to June, was extensive. The sequencing was sometimes as much as 5 days apart, sometimes 2 days apart, and sometimes 4 days apart. That type of sequencing allowed enough time to determine how effective the therapy was.

The ordering physician fairly well spelled out exactly what therapy he wanted. This was not a "shotgun-type", open-ended therapy. The clinical notes indicate that this was a very specific therapy that the treating doctor was following very closely and reports were given. In May 2003, the middle of the period in dispute, the range of motion examination of the joints after surgery showed very detailed ranges of motion. Therapy was adjusted at that point and the treatment was switched to supination-type work.

Also, there was an attempt to get the patient back to work. Work conditioning was started, since the fusion was solid. The patient needed supination work and work conditioning. Thus his therapy was changed since he had been fired from his previous activity. This patient's treatment was closely followed, closely adjusted, with no waste of resources in attempting to get him back to work. The

types of therapy were appropriate for surgery of this type, and a “get-back-to-work” therapy was incorporated in the therapeutic exercises.

Thus, in my opinion, the timing was correct. The sequencing of the therapy was correct. The type of therapy was correct. The follow-up was very closely followed and adjusted specifically to this patient. In summary, the services rendered were appropriate in timing, in quantity, in quality, and with close follow-up and documentation.

Sincerely,